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**United Nations Diplomatic Conference
of Plenipotentiaries on the Establishment
of an International Criminal Court**

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Communication received regarding consultations on the draft
rules of procedure of the Conference (rules 19, 36 and 52)

Note by the Secretary-General

1. On 3 April 1998 the Preparatory Committee on the Establishment of an International Criminal Court adopted provisional rules of procedure for the Conference on the Establishment of an International Criminal Court and recommended that those rules be adopted by the Conference. However, the Preparatory Committee was unable to agree on the rule on a quorum and certain rules on voting. Therefore, rules 19, 36 and 52 appear in square brackets (see A/CONF.183/2/Add.2).

2. By a letter dated 2 June 1998, the Permanent Mission of the Netherlands to the United Nations informed the Legal Counsel, Mr. Hans Corell, that, following informal consultations among interested delegations, a proposal for a solution had emerged with respect to the provisions in question. According to this proposal, the draft rules of procedure, as reflected in document A/CONF.183/2/Add.2, should be amended as follows:

(a) The square brackets around rule 19 should be removed and the text of the draft rule should be adopted;

(b) Rule 36 should be formulated as follows:

"Rule 36. Majority required

"1. Subject to rule 34, decisions of the Conference on the adoption of the text of the Statute of the International Criminal Court as a whole shall be taken by a two-thirds majority of the representatives present and voting, provided that such majority shall include at least a majority of the States participating in the Conference.

"2. Subject to rule 34, decisions of the Conference on all other matters of substance shall be taken by a two-thirds majority of the representatives present and voting.



"3. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting.

"4. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the representatives present and voting.

"5. If a vote is equally divided, the proposal or motion shall be regarded as rejected.";

(c) The square brackets around rule 52 should be removed; the text of paragraphs (a) to (d) should remain unchanged, and paragraph (e) should be formulated as follows:

"(e) Subject to subparagraph (d), decisions on matters of substance shall be taken by a three-fifths majority of the representatives present and voting, provided that such a majority includes at least one third of the States participating in the Conference. Other decisions shall be taken by a majority of the representatives present and voting, except that the reconsideration of a proposal shall require the majority established by rule 33."
